

2023-1663

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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STUPP CORPORATION, a Division of Stupp Bros., Inc., IPSCO TUBULARS  
INC., MAVERICK TUBE CORPORATION

Plaintiffs,

WELSPUN TUBULAR, LLC USA,

Plaintiff-Appellee

v.

UNITED STATES,

Defendant-Appellee,

HYUNDAI STEEL COMPANY,

Defendant,

and

SEAH STEEL CORP.,

Defendant-Appellant.

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**DEFENDANT-APPELLEE'S  
MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 26(b) of the Federal Circuit rules, defendant-appellee, the United States, respectfully requests an extension of time of 17 days, to and including Monday, November 6, 2023, for the Government to file its response

brief. We also request that this extension apply to the response brief for plaintiff-appellee, Welspun Tubular, LLC, USA, so that the response briefs for all parties are due on the same day.<sup>1</sup> Our opening brief is currently due October 20, 2023. This is second request for an extension of time for this purpose; we previously requested and received one 45-day extension. On October 19, 2023, undersigned counsel contacted counsel for the parties seeking their position on this motion. On October 19, 2023, Jeffrey Winton, counsel for defendant-appellant SeAH Steel Corporation, responded via email stating that SeAH objects to this motion. On October 19, 2023, Jeff Gerrish, counsel for plaintiff-appellee Welspun Tubular, LLC USA, responded via email stating that Welspun consents to this motion.

This request for an additional 17 days within which to file our response brief is necessary because of the nature of the issues in this case and its impact on numerous other pending matters. Specifically, the main issue in the case concerns the Department of Commerce's Differential Pricing Analysis. This analysis is also a critical issue in at least one other case currently pending before this Court as well as numerous cases at the U.S. Court of International Trade. These numerous cases have required a heightened level of coordination between Department and agency

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<sup>1</sup> In addition to the reasons stated below, this Court's grant of a corresponding extension of time to the plaintiff-appellee is also supported by good cause because it is in the interest of fairness for the Court to impose a single deadline for the briefs of all appellees.

personnel in order to ensure consistency with the Government's position during the internal review process.

Although we have prepared a draft brief, an additional 17 days within which to file our brief in this case is necessary to allow undersigned counsel to coordinate with the Department of Commerce and finalize the necessary internal supervisory review, all of which is more extensive than usual, given the nature of the issue, and the number of affected potential cases. For these reasons, we respectfully request that the Court grant this request for a 17-day extension of time, to and including November 6, 2023, for all appellees to file their response briefs.

Respectfully submitted,

BRIAN P. BOYNTON  
Principal Deputy  
Assistant Attorney General

PATRICIA M. McCARTHY  
Director

s/ Claudia Burke  
CLAUDIA BURKE  
Deputy Director

s/ Robert R. Kiepura  
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Attorneys for the United States

October 19, 2023

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UNITED STATES,

Defendant-Appellee,

HYUNDAI STEEL COMPANY,

Defendant,

and

SEAH STEEL CORP.,

Defendant-Appellant.

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**DECLARATION OF ROBERT R. KIEPURA**

In support of defendant-appellee's Motion for Extension of Time, defendant-appellee's counsel, Robert R. Kiepura, declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the primary attorney assigned to this appeal for defendant-appellee, the United States.

2. I am working with counsel from the Department of Commerce (Commerce) to respond to the defendant-appellant's brief.

3. On October 19, 2023, I contacted all counsel for the parties regarding this motion. On October 19, 2023, Jeffrey Winton, counsel for defendant-appellant SeAH Steel Corporation, responded via email stating that SeAH objects to this motion. On October 19, 2023, Jeff Gerrish, counsel for plaintiff-appellee Welspun Tubular, LLC USA, responded via email stating that Welspun consents to this motion.

4. The defendant-appellant filed its brief on July 25, 2023. Following one 45-day extension, defendant-appellee's brief is currently due October 20, 2023.

5. This request for an additional 17 days within which to file our response brief is necessary because of the nature of the issues in this case and its impact on numerous other pending matters.

6. Specifically, the main issue in the case concerns the Department of Commerce's Differential Pricing Analysis. This analysis is also a critical issue in at least one other case currently pending before this Court as well as numerous cases at the U.S. Court of International Trade. These numerous cases have

required a heightened level of coordination between agency personnel in order to ensure consistency with the Government's position.

7. Although I have completed a draft brief, the brief is undergoing internal review, as well as coordination with the agency, both of which are more extensive because of the nature of the appeal and the number of possible affected cases.

**DECLARATION**

I certify that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Robert R. Kiepura  
ROBERT R. KIEPURA

Executed: October 19, 2023

**CERTIFICATE OF COMPLIANCE**

Pursuant to Fed. R. App. P. 32(a)(7) and Federal Circuit Rule 32(b), the undersigned certifies that the word processing software used to prepare this motion indicates there are a total of 413 words, excluding the portions identified in the rules. The motion complies with the typeface requirements and type style requirements of Fed. R. App. P. 32(a)(5) and has been prepared using Times New Roman 14 point font, proportionally spaced typeface.

/s/ Robert R. Kiepura  
ROBERT R. KIEPURA